

April 11, 1978

A Resolution Adopting Rules and Regulations Pertaining to the Public Inspection, Copying, Availability, Location and Nature of Such Town of Nanticoke Records As Are Subject to Public Inspection by Law

The Town Board of the Town of Nanticoke, duly convened in regular session, does hereby resolve as follows:

SECTION 1. Pursuant to, and in accordance with, the provisions of Section 89 of the Public Officers Law and the Regulations of the New York State Committee on Public Access to Records (promulgated on January 10, 1978), the Town Board of the Town of Nanticoke hereby makes, establishes and adopts the following rules and regulations pertaining to the public inspection, copying, availability, location and nature of such Town of Nanticoke records as are subject to public inspection by law:

SECTION 2. Definitions. As used in this Resolution, unless the context requires otherwise:

(a) "Town" means the Town of Nanticoke, a municipal corporation organized and existing under and by virtue of the laws of the State of New York and with offices and principal place of business at Nanticoke Town Hall, Cherry Hill Road, Star Route, Maine, N.Y. 13802.

(b) "Town Board" means the Town Board of the Town, with offices at Nanticoke Town Hall, Cherry Hill Rd., Star Route, Maine, NY 13802

(c) "Supervisor" means the Supervisor of the Town, with offices at Nanticoke Town Hall, Cherry Hill Rd., Star Route, Maine, NY 13802

(d) "Town Clerk" means the Town Clerk of the Town, with offices at Nanticoke Town Hall, Cherry Hill Rd., Star Route, Maine, NY 13802

(e) "Regulations" means the Regulations promulgated by the Committee on Public Access to Records on January 10, 1978 pursuant to the New York Freedom of Information Law.

SECTION 3. Purpose and Scope.

(a) The people's right to know the process of government decision-making and the documents and statistics leading to determinations is basic to our society. Access to such information should not be thwarted by shrouding it with the cloak of secrecy or confidentiality.

(b) These regulations provide information concerning the procedures by which records may be obtained from the Town.

(c) Town personnel shall furnish to the public the information and records required by the Freedom of Information Law, as well as records otherwise available by law.

(d) Any conflicts among laws governing public access to records shall be construed in favor of the widest possible availability of public records.

SECTION 4. Designation of records access officer.

(a) The Town Board and the Supervisor shall be responsible for insuring compliance with the regulations herein, and hereby designate the following person as records access officer, who shall have the duty of coordinating Town response to public requests for access to records:

Town Clerk of the Town of Nanticoke
Nanticoke Town Hall
Cherry Hill Road
Star Route
Maine, New York 13802

(b) Records access officers are responsible for insuring appropriate Town response to public requests for access to records. However, this designation shall not be construed to prohibit officials who have in the past been authorized to make records or information available to the public from continuing to do so.

(c) Records access officers are responsible for assuring that Town personnel:

1. Maintain an up-to-date subject matter list.
2. Assist the requester in identifying requested records, if necessary.
3. Upon locating the records, take one of the following actions:
 - (i) Make records available for inspection; or
 - (ii) Deny access to the records in whole or in part and explain in writing the reasons therefor.
4. Upon request for copies of records:
 - (i) Make a copy available upon payment or offer to pay established fees, if any; or
 - (ii) Permit the requester to copy these records.
5. Upon request, certify that a record is a true copy, and
6. Upon failure to locate records, certify that:
 - (i) The Town is not the legal custodian for such records, or
 - (ii) The records of which the Town is a custodian cannot be found after diligent search.

SECTION 5. Location.

Records shall be available for public inspection and copying at:

Nanticoke Town Hall
Cherry Hill Rd., Star Route
Maine, NY 13802

or at the location where they are kept.

SECTION 6. Hours for public inspection.

Requests for public access to records shall be accepted and records produced during all hours the Nanticoke Town Hall is regularly open for business. These hours are: on regular business days, Monday through and including Friday, between the hours of 9:00 A.M. and 5:00 P.M. or contact the Town Clerk, Box 76, Glen Aubrey Road, Whitney Point, N.Y. 13862 Phone 862-3232.

SECTION 7. Requests for public access to records.

(a) The Town may require that a request be made in writing or may make records available upon oral request.

(b) The Town shall respond to any request reasonably describing the record or records sought within five business days of receipt of the request.

(c) A request shall reasonably describe the record or records sought. Whenever possible a person requesting records should supply information regarding dates, file designations or other information that may help to describe the records sought.

(d) If the Town does not provide or deny access to the record sought within five business days of receipt of a request, the Town shall furnish a written acknowledgment of receipt of the request and a statement of the approximate date when the request will be granted or denied. If access to records is neither granted nor denied within ten business days after the date of acknowledgment of receipt of a request, the request may be construed as a denial of access that

may be appealed.

SECTION 8. Subject matter list.

(a) The Town shall maintain a reasonably detailed current list by subject matter of all records in its possession, whether or not records are available pursuant to subdivision two of section eighty-seven of the Public Officers Law.

(b) The subject matter list shall be sufficiently detailed to permit identification of the category of the record sought.

(c) The subject matter list shall be updated not less than twice per year. The most recent update shall appear on the first page of the subject matter list.

SECTION 9. Denial of access to records.

(a) The Town Board shall hear appeals or shall designate a person or body to hear appeals regarding denial of access to records under the Freedom of Information Law.

(b) Denial of access shall be in writing stating the reason therefor and advising the person denied access of his or her right to appeal to the person or body established to hear appeals, and that person or body shall be identified by name, title, business address and business telephone number. The records access officer shall not be the appeals officer.

(c) If the Town fails to respond to a request within five business days of receipt of a request as is required by the Regulations, such failure shall be deemed a denial of access by the Town.

(d) Any person denied access to records may appeal within thirty days of a denial.

(e) The time for deciding an appeal by the individual or body designated to hear appeals shall commence upon receipt of written appeal identifying:

- (1) The date and location of a request for records;
- (2) the records that were denied; and
- (3) the name and return address of the appellant.

(f) The Town shall transmit to the Committee on Public Access to Records copies of all appeals upon receipt of an appeal. Such copies shall be addressed to:

Committee on Public Access to Records
Department of State
162 Washington Avenue
Albany, New York 12231

(g) The person or body designated to hear appeals shall inform the appellant and the Committee on Public Access to Records of its determination in writing within seven business days of receipt of an appeal. The determination shall be transmitted to the Committee on Public Access to Records in the same manner as set forth in subdivision (f) of this section.

(h) A final denial of access to a requested record, as provided for in subdivision (g) of this section, shall be subject to court review, as provided for in Article 78 of the Civil Practice Law and Rules.

SECTION 10. Fees. Except when a different fee is otherwise prescribed by law:

(a) There shall be no fee charged for the following:

- (1) Inspection of records;
- (2) Search for records; or
- (3) Any certification pursuant to the Regulations or pursuant to this Resolution.

(b) The fees for copying records shall be as follows:

(1) The fee for copying records shall be 25 cents per page for photocopies not exceeding 9 by 14 inches.

(2) If, at the time of the request, the Town does not have photocopying equipment, a transcript of the requested records shall be made upon request. Such transcripts may either be typed or handwritten. In such cases, the person requesting records may be charged for the clerical time involved in making the transcript.

(3) The fee for copies of records not covered by paragraphs (1) and (2) of this subdivision shall not exceed the actual reproduction cost, which is the average unit cost for copying a record, excluding fixed costs of the Town such as operator salaries.

SECTION 11. Public notice. The Town shall publicize by posting in a conspicuous location and/or by publication in a local newspaper of general circulation:

(a) The location where records shall be made available for inspection and copying.

(b) The name, title, business address and business telephone number of the designated records access officer.

(c) The right to appeal by any person denied access to a record and the name and business address of the person or body to whom an appeal is to be directed.

SECTION 12. Severability. If any provision of this Resolution or the application thereof to any person or circumstances is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of this Resolution or the application thereof to other persons and circumstances.

SECTION 13. This Resolution shall take effect immediately.